

ID: CCA-511247-09

Number: **200931046**

Office:

Release Date: 7/31/2009

UILC: 6323.01-00

From:

Sent: 05/11/09

To:

Cc:

Subject: FW: Work Stoppage Tulsa OK

Hi . I am also attaching a letter that in sent to the county recorder in one of the PA counties. The centralized lien unit is phasing out the use of so called convenience checks (checks that are associated with a micro-purchase credit card account) to county recorder offices due to the expense and resource issues. About half the counties are already on FMS TOPS. All 3400 counties eventually will be migrated over to the Treasury Financial Management System TOPS program. The Service sends the payment request to Treasury and the FMS TOPS program checks for debts owed by the county to the federal government and sets them off. The OK version of the Uniform Federal Lien Registration Act mandates that county clerks record the NFTL upon presentation and bill the Service monthly. Keep me posted. Thanks for your assistance.

Attachment

OFFICE OF CHIEF COUNSEL
DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OFFICE OF DIVISION COUNSEL
SMALL BUSINESSSELF-EMPLOYED

Dear

This letter concerns federal tax liens and releases submitted to Washington County for filing and the payment of recording fees. I am in receipt of your letter, dated April 9, 2009, addressed to _____, IRS Lien Processing Program Manager. According to your letter, Washington County intends to implement a new procedure and will require payment up front for the filing of liens and releases.

The present practice in Washington County is to accept and record the liens and releases when received and to bill the IRS for the filing fees. We understand that your office submitted a bill to the IRS for the February 2009 recording fees in the amount of \$ _____, and the amount deposited into the account for your office was \$ _____. However, the payment of \$ _____ was subject to an administrative offset to satisfy a delinquent debt owed by an agency of Washington County, Pennsylvania. Enclosed is information regarding the Treasury Offset Program. The Treasury Offset Program is a centralized offset program, administered by the Financial Management Service's (FMS) Debt Management Services (DMS), to collect delinquent debts owed to federal agencies and states. If a local jurisdiction owes a delinquent debt to a government agency, that agency sends information about the debt to the FMS database. Before the county receives a federal payment (including payment of recording fees), the database is searched to determine if a delinquent debt is registered. If so, FMS will reduce or withhold the federal payment to satisfy the delinquent amount. More information regarding the Treasury Offset Program can be found at <http://www.fms.treas.gov>.

The federal tax lien gives the federal government a legal claim to the taxpayer's property for the amount of the tax debt. Therefore, it is extremely important that the liens and releases are timely filed and properly recorded in order to give notice of the federal lien to persons dealing with the taxpayer, and, once satisfied, that the lien is timely released in order to ensure that the taxpayer is not harmed. Under Pennsylvania law, if a notice of federal lien, a refiling of a notice of federal lien or a notice of revocation of any certificate . . . is presented to the filing officer . . ., *he shall* endorse thereon his identification and the date and time of receipt *and forthwith file it* alphabetically, or enter it in an alphabetical index, showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien and the total amount appearing on the notice of lien. PA ST 74 P.S. § 157-5. With regard to fees, the statute provides that the filing officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them. PA ST 74 P.S. § 157-6. Thus, Washington County is not abiding by the statute in requiring the IRS to forward the recording fee payment prior to filing or releasing the federal liens. I have enclosed a copy of the statute for your reference.

The government has both a common law and a statutory right of setoff. United States v. Tafoya, 803 F.2d 140, 141 (5th Cir. 1986). "The government has the same right which belongs to every creditor, to apply the unappropriated moneys of his debtor, in his hands, in extinguishment of the debts due to him." United States v. Munsey Trust Com. Of Washington, D.C., 332 U.S. 234, 239 (1947). In the instant matter, the recording fees paid to the Washington County Prothonotary are being offset for obligations of another Washington County agency. Your office must work with the other County agency or agencies to redistribute funds. This is not a problem that allows Washington County to stop filing federal liens and releases. As stated above, it is extremely

important that federal tax liens are timely filed and properly recorded and released when satisfied.

In light of the above information, we request that your office comply with the Pennsylvania statute referenced herein and continue to accept and record the federal liens and releases upon receipt and bill the IRS on a monthly basis. Please contact me at your earliest convenience with any questions you may have and to relay your position and course of action in this matter. I can be reached at .

Sincerely,

Enclosures:
cc:

Treasury Offset Program

The Treasury Offset Program is a centralized offset program, administered by the Financial Management Service's (FMS) Debt Management Services (DMS), to collect delinquent debts owed to federal agencies and states (including past-due child support), in accordance with 26 U.S.C. § 6402(d) (collection of debts owed to federal agencies), 31 U.S.C. § 3720A (reduction of tax refund by amount of the debts), and other applicable laws. FMS disburses federal payments, such as federal tax refunds, for agencies making federal payments (known as "payment agencies"), such as the Internal Revenue Service. "Creditor agencies," such as the Department of Education, submit delinquent debts to FMS for collection and inclusion in TOP and certify that such debts qualify for collection by offset.

Payment agencies prepare and certify payment vouchers to FMS and disbursing officials at other federal agencies that are non-Treasury disbursed (such as the Department of Defense), who then disburse payments. The payment vouchers contain information about the payment including the name and Tax Identification Number (TIN) of the recipient. Before an eligible federal payment is disbursed to a payee, disbursing officials compare the payment information with debtor information, which has been supplied by the creditor agency, in FMS' delinquent debtor database. If the payee's name and TIN match the name and TIN of a debtor, the disbursing official offsets the payment, in whole or in part, to satisfy the debt, to the extent legally allowed. The disbursing official is required to perform such offset pursuant to 31 U.S.C. § 3716(c).

FMS transmits amounts collected through offset to the appropriate creditor agencies. FMS maintains information about the delinquent debt in the TOP delinquent debtor database and continues to offset eligible federal payments until the creditor agency suspends or terminates debt collection or offset activity for the debt. A creditor agency will suspend collection if the debt is subject to a bankruptcy stay or if other reasons justify suspension. A creditor agency will terminate collection of a debt if it is paid in full, compromised, discharged, or if other reasons justify termination.

If you have questions regarding the offset of your federal tax refund or offset of another U.S. government-issued payment. You can call our Treasury Offset Program (TOP) Call Center to obtain agency contact information during our customer service hours.

Toll Free: (800) 304-3107

TDD number: (866) 297-0517